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**BEFORE THE
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**INITIAL BRIEF OF
THE NATIONAL NEWSPAPER ASSOCIATION**

April 1, 1998

The National Newspaper Association
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I. NNA Statement of Interest

The National Newspaper Association is the national voice of community newspapers. It was established in 1885 to promote, protect and enhance community newspapers. NNA represents nearly 4,000 newspapers comprising of primarily weekly and daily newspapers with a local community editorial and advertising focus. NNA member newspapers rely heavily upon the Periodicals class of mail with a particular reliance upon the preferred rate subclass in-county mail for their distribution. NNA members also are users of other classes of mail, including Standard A mail and First Class mail.

II. Summary of Argument

The National Newspaper Association finds that the United States Postal Service has not met its burden to ensure the volume data for within county mail is reliable, leading to unsupportable conclusions by the Postal Service as to an asserted sharp decline in the within county mail volume, as well as potentially incorrect pricing. NNA believes the purported loss of volume will lead to dramatic price increases and further decreases in volume as a result.

NNA seeks a searching investigation of actual, accurate, and justifiable within county data, beginning with the means by which the within county subclass is measured. NNA finds that there has been no change by the Postal Service in its sample design or the designation of offices comprising the sample as a result of errors discovered in the 1994 rate case nor in preparation for the current rate proceeding.

NNA further seeks recognition by the Postal Rate Commission of the dramatic decline in actual on-time delivery for outside-the-county Periodicals mail since the reclassification case. The Commission should respond by recognizing the severity of the matter through a modest adjustment to the cost coverage.

NNA additionally seeks the correction of a specific and narrow problem for within county mailers by extension of the DDU entry discount to newspapers entered through exceptional dispatch. Newspaper publishers currently serving as their own mail transport workers and hauling their own mail due poor delivery by the Postal Service should receive the same recognition for their efforts as large publishers do. Small publishers should not be required to pay twice—once for postage and again for out-of-pocket costs spent to get the mail delivered on time.

NNA also seeks a change to the current rule governing the 125 piece walk-sequenced threshold to a requirement of 25% of a carrier route to address the unfair impact on rural routes. Next, NNA favors the Postal Service's action in expanding its presort categories in the case—specifically, the proposed 3 digit rate, as a new opportunity for work-sharing.

NNA believes Postal Service profits and test year costs should receive careful scrutiny by the Commission. Due to the rosy financial results for the Postal Service, NNA recommends that rates no higher than those proposed should be recommended, and believes that this is an ideal time to pass on work-sharing discounts previously denied and to correct its flawed data collection systems in all areas of costing.

Finally, NNA seeks the Commission's rejection of the Newspaper Association of America's witness Sharon Chown's testimony on methods for assessing the degree of cost coverage deemed appropriate for subclasses. NNA is concerned about a risk of misapplication despite NAA's assertion that provisions of the Revenue Forgone Reform Act will apply to protect against the use of this metric for the within county rate. NNA does not believe the approach has been adequately tested against other means of achieving the goals of Title 39.

III. Argument

A. Volume data for within county mail are unreliable

1. The source of the numbers

The Postal Reorganization Act requires each class of mail to be priced so that its revenue covers its attributable costs and contributes to the support of "all other costs of the Postal Service reasonably assignable to such class or type." 39 U.S.C. 3622(b). Among the first developments after passage of the Act was the agreement between the Postal Rate Commission and the USPS Board of Governors that the law mandated a two step process. First, the Postal Service must determine which costs are directly or indirectly attributable to a specific class by measuring the response of that cost to changes in volume. Second, the Postal Service must judgmentally assign the remaining costs on the basis of demand and other non-cost factors in the statute. Newsweek, Inc. v. United States Postal Service, 663 F.2d 1186 (2nd. Cir. 1981).

This methodology requires accurate measurement of volumes in each segment of the mailstream. The Postal Service has the burden of determining how many mail pieces were in the mailstream for a given time frame, and which classes, subclasses and rate categories were represented by those pieces. It must proceed through its statistical systems to determine the cost of handling that mail. Direct Testimony of Bradley Pafford, USPS-T-1 at 3. Further, it must present not only its understanding of how the costs vary with volume, but how they should be distributed within or across cost segments or pools.

This record is replete with dialogue about the Postal Service's choices of methodologies for determining costs, over what term costs must vary in order to be deemed variable, the role of incremental costs in determining rates and how the cost segments or pools should be measured. *See, e.g.*, Tr. 26/14157-81; Tr. 27/14993-5004; Tr.28/15583-639. The underlying importance of accurate volume data, however, is so intrinsic to the ratemaking process that the role of volume is unchallenged. Prices are not charged in aggregate, but in pieces. Once the costs of a specific class or category are measured, they must be divided by the pieces within the class or category to determine the attributable cost of a piece. That number provides the first step in the formula that leads to a price for each piece of mail.

The second step--determining the burden a piece should assume in contributing to the non-attributable costs of the system or, in the postal lexicon, institutional costs--also attracts much debate. Tr. 25/13261-93; Tr. 25/13472-508. But the principle is uncontroverted that once the share of burden for those

costs is determined for each subclass, it will be divided by the pieces in that subclass to determine the contribution to institutional costs that will be required of each piece of mail in that subclass.

The role, therefore, of the denominator in the pricing formula--that is, the number of pieces in the mailstream--is critical. Growing volumes may offset the effect of rising costs. But rising costs and falling volumes lead inevitably to higher prices. Because each service has some measure of own price elasticity, a rate increase will lead to a further loss of volume in the subclass, leading to further increases in price and decreases in volume. Direct Testimony of George Tolley, USPS T-6 at 13. Eventually this downward spiral can fatally cripple the affected subclass.

Witness Pafford is responsible in this case for supplying the denominator. He testified that estimates of the volumes, weight and revenues derived from each mail class and rate category are reported for the base year in a periodic report from the Revenue, Piece, Weight (RPW) reporting system. Pafford at 7. The totals in that report are compiled from a variety of statistical systems that draw volume numbers from data supplied by mailers and statistical sampling systems created by USPS to capture remaining volume numbers.

Pafford explained the methodology by which periodicals data are compiled in Library Reference H-89. Tr. 9/4346. To compile volume data for periodicals, and specifically for within county mail, the Postal Service derives numbers from two major systems. First, it counts all offices automated through the PERMIT system in one certainty stratum. For the remainder of the offices, a

stratified sample known as the nonautomated panel is constructed to gather mail volume data. Tr. 9/4356. The design of the sample appears on the record. Tr. 9/4363. The system appears to have been designed sometime prior to 1985 and is updated periodically. Tr. 15/7609-10. However, the panel appears to include some offices that have since converted to PERMIT, but remain within the panel. Tr. 15/7599.

While most of the within county volumes that contribute to the totals for the base year are derived from PERMIT offices, the large majority of delivery offices containing within county data are not on PERMIT. Tr. 9/4354. According to Pafford, 1,375 PERMIT offices submitted data for within county mail in FY 1996 and 296 PERMIT offices reported no within county volumes. Tr. 9/4355. Pafford contends that all automated offices contribute their volumes through PERMIT. Tr. 9/4384.

However, there are an additional 6,103 offices within the population of entry offices. Pafford was unable to explain why more than 6,000 offices were not PERMIT automated but testified that volume data from those offices is compiled through the "nonautomated panel in the Noncountable Subsystem." Tr. 9/4382. It appears that conversion of an office to PERMIT is not sufficient cause to have the sample changed, because the panel evidently does include some automated offices. Tr. 9/7599.¹

¹ By the third quarter of 1997, PERMIT was capturing data from 1,779 offices, producing information on 62% of within county mail volumes. The rest of the volumes were captured from 92 offices within the non-automated panel. Tr.9/4360.

The need for attention to the nonautomated panel data is acute. If Pafford's figures are reliable, fewer than 18 percent of the entry offices potentially holding within county volumes are reporting through PERMIT. The rest--6,103 offices--contribute volume data only through the nonautomated panel. Tr. 9/4378. Their data must be captured through sampling systems. Tr. 9/4380-84.

B. Questions of the accuracy of sampled data must be revisited.

Within county subclass volumes have shrunk from 1.73 billion pieces in 1985 to 877 million pieces in the base year, now constituting only about a half of one percent of total domestic mail volumes. Pafford, Table 2 at 11-12. There is reason to suspect that this precipitous decline in reported volumes is at least in part an artifact of the reporting methodology used by the Postal Service.

NNA questioned the accuracy of much of the data on within county mail volumes in R94-1. The Postal Service initially requested a 34.1 percent increase in rates for the within county subclass. During the course of the case, the Postal Service discovered that its cost data included information about periodicals publications that had lost eligibility for within county rates since the system was designed. When the errant cost data were removed, the proposed increase was converted to a proposed decrease. Opinion and Recommended Decision of the Postal Rate Commission, Docket R94-1 at V-72.

It is not clear that the problems with IOCS tallies and their reliance upon PERMIT data as a confirmation of proper classification of a newspaper piece in all likelihood have been rectified since R94-1. See, e.g., Tr. 19F/10060-66. Witness Degen confirms that the labor-intensive fact-checking process used in R94-1 is still in place for this docket, and that PERMIT is still an essential piece of the process. Tr. 12/6241, 6670, 6675. If errors were made in classification in R94-1, they are still in the cost data. A piece once classified is unlikely to be changed in a given base year. Tr. 12/6678.

The focus in R94-1 was in the *costing* data. In this docket, however, NNA has focused upon the *volume* data and the questions regarding them left unanswered by R94-1. In that case, NNA submitted an affidavit from its witness, John Haldi, showing significant anomalies within the RPW data, including reported revenues but no volumes, revenues beneath the minimum possible under existing rates and other concerns. Opinion, R94-1 at V-73.

NNA sought then to discover post-office specific volume data, so it could measure the RPW reports against its own members' mailing practices. The Postal Service vigorously resisted discovery of the data, claiming it to be proprietary. Tr. 27/14804. NNA, as a small party challenged by the high cost of participating in such a case, retreated and left the question of volumes to be dealt with on another day. Opinion, R94-1 at V-73. In R97-1, NNA did not opt to retrace its steps from R94-1, having no reason to believe the Postal Service's position on post-office specific data had changed. Tr. 27/14804. NNA instead

has focused its efforts upon better understanding the system that leads to the volume results.

NNA sought a detailed explanation from Pafford about the manner in which volume data are constructed. Initially, it received only terse responses, with citation to a library reference that was not yet in evidence. Tr. 9/4355. Through subsequent discovery, NNA learned more from the witness about the system. *It was confirmed that the system that produced the flawed volume data in R94-1 was essentially unchanged. There had been no changes in the sample design or the designation of offices comprising the sample as a result of errors discovered in preparation for or litigation of R94-1 or in preparation for R97-1.* Tr. 15/7610. One can only surmise that the sorts of anomalies identified by witness Haldi in R94-1 are still present and are simply perpetuated from year to year.

Questioning the reliability of data and determining a suitable substitute for the data are two different matters, as NNA recognizes. Being constrained by the Postal Service's reticence about entry office data, NNA is unable to test the reliability of the Postal Service's figures against those of its member mailers. NNA chose instead to look at the trends in the newspaper population presumed most likely to use within county mail. If that population is growing, but mail use is apparently in decline, NNA reasoned that either small newspapers are abandoning the postal system in droves or the Postal Service is seriously undercounting mail. Knowing that many small newspaper mailers were entering in rural offices that were not PERMIT-based, NNA's witness Heath raised the inference that volumes were undercounted. Tr. 27/14885.

In arriving at the inference, witness Heath turned to circulation data maintained by NNA for purposes of its membership billing. Tr. 27/14751. He examined the growth trend in circulations of weekly newspapers. He began with the assumption that weekly newspapers are the primary (though not sole) users of the subclass, having been the primary intended beneficiary of this statutorily mandated subclass. See 39 U.S.C. 3626(a)(1).²

Heath found that the trend lines of weekly newspaper circulations do not explain the decline. Instead, the circulations of weekly newspapers have grown dramatically. Tr. 27/14751. He examined other possible explanations for the purportedly declining mail volumes. He posited the possibility of private delivery as the cause, but rejected that possibility as a major factor because of the difficulties of setting up private delivery for weekly newspapers. Tr. 27/14754. The possibility of unreliable delivery as a deterrent to subscribers exists as well, but Heath testified that on-time delivery for within county newspapers is fairly good. Tr. 27/14883. He then turned to NNA's only available data on its own members as users of the mail. He examined a mail users' survey taken in 1995 for purposes of gauging member interest in various mail services. He asserted that he suspected the responses to be an understatement of total industry information, but from it he offered a ballpark guess that 22 percent of weekly

² This historical view has been articulated by the Commission and is reflected in the Congressional record. In its 1986 report to Congress on the subject of preferred rates, the Commission reviewed the history of this subclass. It reiterated the intent of Congress to preserve a subclass to promote local publications through preferred rates. Report to the Congress: Preferred Rate Study, United States Postal Rate Commission, June 18, 1986, at 45-46.

newspapers mailed by NNA members are in the within county subclass.

Tr.27/14796.

Heath's calculations lead to the fundamental question about within county volumes. If there are 81.5 million copies of a weekly newspapers reaching households each week and 22 percent of those are within county mail, there would be 933 million pieces of weekly newspapers in the within county mailstream. (81.5 million x 52 issues per year x 22% percent within county classification = 933.3 million copies). Heath could not account for additional volumes presented by biweekly or triweekly newspapers. He noted that their circulations would be reported on a per-issue basis and therefore the additional issues in a given week would not be included within his calculations. Tr.

27/14888. If it were possible to quantify those issues, his totals would be even higher.

Finally, Heath noted that other types of publications besides weekly newspapers are eligible to use the within county mailstream. Tr. 27/14803. If a discrepancy already exists between his estimated within county newspaper usage and the Postal Service's reported within county mail volumes, and if the pieces submitted by the newsletter, city magazine, church newsletter and business newspaper publishers could be counted, the discrepancy would grow apace. The Postal Service acknowledges these pieces to be eligible for this class, but it has no data for them, and neither, therefore, does Heath. Tr. 10/4912.

No witness in this case has examined trends in growing or shrinking use of the subclass by non-newspaper mailers at all, and only Witness Tolley examined reasons for declines by newspapers. He attributed them to changes in volume sampling (despite the fact that Pafford insisted that no one in the Postal Service knows exactly how sampling occurred in earlier years. Tr. 9/7611.), to an own price elasticity of -0.530 (which is supported by no data in this docket) and to the effects of cable television, although again he offered no data on why cable television would affect a weekly newspaper. However, he confessed that he had conducted no examination whatever of weekly newspaper circulations because he could find no information on that subject. Tr. 13/6936. In fact his analysis of volume declines focused solely upon declines in daily newspaper circulations without offering any explanation of the role he believes daily newspapers may play in within county volumes, or noting the historical fact that weeklies constitute the primary user of the subclass. Tr. 13/6938-9. That a postal witness with the stature and credibility of Dr. Tolley would provide such an incomplete analysis of the reasons for the decline of the subclass--and that he would use data are plainly irrelevant to the analysis--is simply testimony to the neglect that Heath describes. Tr. 27/14885.

In the end, neither the Postal Service nor NNA has an explanation for the volume decline, but NNA's inference is more plausible than that offered by Tolley. NNA has provided data indicating that the eligible user class is growing. Heath has testified from personal knowledge as a postal counselor to community newspapers that many of the newspapers with which he is familiar are entering

mail through offices counted through the noncountable subsystem. It is reasonable to assume that the "noncountable" system is aptly named. It is not counting the pieces that exist.

Volume declines of the severity reported in the within county subclass are no small matter. As the subclass gets smaller, the benefits of cost averaging decline. As the subclass gets smaller, the share of institutional costs that each piece is required to sustain grows. As a result, the rate increases. While Tolley's demand elasticities for this subclass are unreliable, it is certain that some elasticity exists. It will cause volumes to accelerate the downward spiral that the Commission has noted in this subclass since 1985.

The possible explanations are several. Until an answer is found, however, another price increase will simply accelerate the spiral. It is on the basis of that concern, in addition to others stated on this record, therefore, that witness Heath has requested that the Commission consider freezing the rate and requiring a study by the Postal Service of the causes of the decline. If a rate freeze pending investigation of the noncountable subsystem is not within the Commission's range of options, NNA would request that the Commission recommend a rate no higher than that requested by the Postal Service in its filing. The Commission should order the Service to provide better data and strongly suggest that it devote at least a portion of its new revenues from this case to a better analysis of shrinking volume data before another request for new rates is filed.

IV. The Commission should recognize a declining value of service as well as mailer work-sharing undertaken to avoid the negative effects of poor service.

A. Since reclassification, delivery of periodicals to areas outside a newspaper's local market has declined markedly.

The value of the service provided to a class of mail is recognized by the Commission in determining its cost coverage and also in measuring its responses to price increases. Direct Testimony of Donald O'Hara, USPS-T-30 at 4. For periodicals, the value of service involves the timely and reliable delivery of a mail piece--neglect of which will cost the publisher the good will and eventually the business of a subscriber. Tr. 27/14897. That negative effect is acknowledged by the Postal Service. Tr. 2/178.

O'Hara's believes that the "value of service...received by Periodicals is moderately high in terms of intrinsic service characteristics, although not as high as First-Class Mail since they receive much less air transportation and no collection system." O'Hara at 29, lines 20-22. O'Hara's assertion, however, assumes that actual service corresponds to service standards. Tr. 2/240. This is rather like the owners of the Titanic insisting that their ship was seaworthy in the face of compelling evidence to the contrary.

Periodicals witnesses in the case attest that the actual on-time delivery has declined markedly since postal reclassification in Docket MC95-1. NNA witness Patsy Speights provided the Commission with a view of the effect of reclassification upon her small newspaper in Prentiss, Mississippi, when she explained the impact of the changes.

Before reclassification, the New Hebron mail left Prentiss and went to Hattiesburg about 40 miles away. After reclassification, the route changed from Prentiss to Hattiesburg to Gulfport, down to New Orleans and then back again after it is sorted in the New Orleans ADC.

Those newspapers travel further in a week than I do in some years. And the ironic thing is that New Hebron is only 18 miles from Prentiss...With the new rules for sacking and packaging for Periodicals, our newspapers have traveled widely, but our service has declined. Tr. 27/14895 lines 20-2; Tr. 27/14896 lines 1-2, 14-16.

Speights offered for the record a sampling of the complaints received from subscribers since reclassification. Tr. 2/14902-14926. Readers complained of slow delivery and in some cases, issues missed entirely. Tr. 27/14903, 14905, 14912. She discussed loss of reader loyalty because of the persistent problems. Tr. 2/14897.

Speights recognized that delivery to long-distance readers has been a perpetual problem within the Postal Service, Tr. 27/14897, but she believes slow delivery has become more acute since 1995. NNA Witness Heath agreed. Identifying himself as NNA's chief counselor to newspapers on postal problems, Heath explained that he became aware of burgeoning complaints very soon after reclassification took effect and asserts that the root of the problem was the creation of the ADC and mixed-ADC sorting scheme. Tr. 2/14746 lines 12-14. He offered a series of newspaper columns written contemporaneously with the onset of the difficulties that address publishers' concerns with service. Tr. 2/14769-775.

NNA's witnesses are not the only periodicals' representatives complaining of new service problems. American Business Press witness McGarvey has submitted evidence showing an average of on-time delivery no higher than the 43-45% range for the past three years, a statistic compiled from measuring the Postal Service's performance in handling 65 publications. She noted that one out of five copies is arriving more than three days late. Tr. 28/15301.

Testifying for McGraw Hill, witness Hehir offered evidence of late delivery of McGraw-Hill weeklies 50 percent of the time and of monthlies 75 percent of the time. Tr. 28/14713. He, too, noted that the problem has been exacerbated in the past two years. Tr. 3/14707.

The Postal Service seems to have some recognition of the problem. Witness O'Hara acknowledged that mailers complain of inadequate service, even though he is not persuaded that intrinsic value has been affected. Tr. 2/240-241. But he agreed that if service really had deteriorated, a reduction in cost coverage would be appropriate. Tr. 2/363-64. However, he conducted no investigation into the Service's fulfillment of its delivery function, whether the timeliness of it has risen or fallen or whether, indeed, the "moderately high intrinsic service characteristics" even remain an element of the postal system, in light of mailer dissatisfaction with service. O'Hara at 29. In fact, he conceded that the Postal Service has no measurement system on delivery times. Tr. 2/111. The Postal Service did no calculations in relation to on-time delivery or service complaints when it arrived at a proposed cost coverage. Tr. 2/177. Without data from the Postal Service, which possesses the only realistic means to measure

system-wide performance, mailers are left with anecdotal evidence. But the anecdotal evidence here is substantial. Though no mailer can measure precisely how far service performance has fallen, it is clear that the changes in the system since reclassification have had a deleterious effect upon the value of service to mailers.

The delivery problem may be one that the Postal Service would like to place beyond the reach of litigation simply by neglecting to quantify it. The Postal Service appears to believe that even if service had recognizably deteriorated, the low cost coverage for periodicals would inhibit recognition of diminished value by a further reduction in cost coverage. Tr. 2/364, lines 5-6.

Cost coverage proposed in this docket has been moderated in the Postal Service's proposal for periodicals rates. From the 116 percent approved by the Commission in R94-1, the coverage is adjusted downward to a proposed 107 percent. If Periodicals coverage is approved at that level, within county coverage would be set by statute at 103.5 percent. O'Hara at 32.

The Postal Service cited as the principal element in its rationale for this proposed moderation the fact that increases in flat mail processing costs had elevated the unit attributable cost for the class in the base year. O'Hara at 30. It also paid notice to the educational, cultural, scientific and informational value of the mail under 39 U.S.C. 3622(b)(8). But it made no adjustment for the mailers' complaints of delivery problems.

If delivery time is, in fact, an element in the value of service to the customer and if value of service is an element mandated by 39 U.S.C. 3622(b), a

failure to recognize diminished value through some reduction in cost coverage amounts to a nullification of that element in the Act. Said another way, if cost coverage is to be reduced from 116 percent to 107 percent solely by concerns over rate shock and not at all by a recognition of declining service, a full consideration of 39 U.S.C. 3622(b)(2) has yet to be brought into the cost coverage for Periodicals in this case. The Commission has the obligation to review that criterion and to consider whether the markup should be further moderated.

NNA recognizes the efforts of the Commission over the years to moderate Periodicals rates. Its respect for the ECSI value of the mail is a key to the achievement of the mission of Title 39. NNA also recognizes that a proposed cost coverage of 107 percent and 103.5 percent for regular rate and within county rate periodicals respectively in this case is a low coverage. Finally, NNA recognizes that the Commission cannot directly affect the operational decisions that lead to the quality of service provided to mailers. The fact remains, however, that if no recognition to the increasingly serious problems of Periodicals class service in the regular rate categories is paid by the Commission in this case, the Postal Service will pay no economic penalty for its failure to confront, measure and repair the problem. Accordingly, while NNA does not seek a major adjustment in cost coverage, NNA does seek at least some recognition by the Commission of the severity of the problem and the seriousness of the matter. The Commission should make a modest adjustment to the cost coverage as a

signal to the Postal Service that its attention to the matter is required before the Postal Service appears again for new rates.

B. A specific and narrow problem for within county mailers can be remedied through an exceptional dispatch work-sharing discount.

Speights's testimony also highlighted another unique problem for small newspaper. She is the editor of a small town weekly newspaper in south Mississippi. Her newspaper reaches readers in the small town of Prentiss, as well as those in nearby small towns of Bassfield, Carson and New Hebron and in surrounding rural areas. Tr. 27/14894. Speights' newspaper, the *Prentiss Headlight*, enjoys within county rates for about 41 percent of its circulation. Tr. 2/14893. The balance of the subscribers are reached through a combination of home (private) delivery by the newspaper and mail to outside-the-county readers. Id.

Although Speights attested to the problems of delivery of newspapers outside her county in general, she focused with particular concern upon delivery to New Hebron, one small town that is within her market, but in a different county. Tr. 27/14895-14896. After reclassification the postal transportation patterns for that town changed. Speights and her postmaster worked closely together to solve a problem of the deteriorating service to that one town. They tried changing to a different color sack. No improvement resulted. They tried a third color. That also failed to work. They tried packaging the New Hebron copies in a box with a message from the postmaster urging the downstream processors

to deliver that mail untouched direct to New Hebron. The further effort failed. Tr. 27/14895, lines 11-19. Finally, in desperation, Speights became a mail transport worker herself, taking time from editing the newspaper to drive the mail to New Hebron, and to drop those copies through a mail slot there. Tr. 27/14896, 14946. She continued to enter and verify that mail through the Prentiss office, 27/14946, but the Prentiss office never touched a piece of the New Hebron mail following her conversion to exceptional dispatch. Tr. 27/14946.

Speights is authorized by the Postal Service to perform this transportation to the New Hebron delivery unit. Tr. 27/14949, line 22. The Domestic Mail Manual permits her and others to perform this downstream "entry" when a postmaster authorizes a publisher to deliver copies of a time-sensitive Periodicals publication, "at the publisher's own expense and risk." DMM D210.3.1. The authorization is available only for short-haul local distributions, DMM D210.3.2. Postage is paid at SCF rates if "eligible for those rates at both the entry office from which the zone rate postage for those copies is computed and at the post office of deposit by exceptional dispatch." DMM 210.3.4. The authorization is available only to mailers of time sensitive Periodicals, DMM D210.3.1. It is theoretically available to a mailer of any volume of pieces, but is realistic only for relatively static volumes. Each time a mailing varies by more than two percent of the number originally authorized, the publisher must file an amended application, a paperwork requirement that would be a deterrent to any time-sensitive publication unless it had the relatively stable circulation patterns common to a small newspaper. DMM D210.3.5.

Speights clearly believes herself to be without choices in the matter of exceptional dispatch. Alternatives that use the postal transportation and personnel for which she is paying have failed. She undertakes the work on her own, but she receives no compensation for the time, vehicle depreciation, fuel and lost opportunity to write more stories or sell more advertising for the newspaper. She believes her problem is common for small newspapers. Tr. 27/14949, 14937-39.

If Speights were the publisher of a larger, national publication, she could presumably solve her problem as publishers of larger periodicals are able to do. She could purchase air freight to the tune of \$3.5 million as has Crain Communications. Tr. 28/15282, and she could apply for the right to enter in additional entry offices, as she would be authorized to do under DMM 230.Tr. 10/4905. In the base year, she would have saved a little more than 2.1 cents per pound. She would save 2.2 cents per pound under proposed rates. For a mailing as large as a Crain's mailing, the pennies add up to some significant compensation for the work-sharing. For volumes small enough to insert through a letter slot, the discount is minimal.

But even this small compensation is not available to Speights. In order to qualify for it, she would have to apply for additional entry. She must submit an application with a fee of \$85. DMM R200.6.1. In addition, she would have to file a separate mailing statement and maintain a postage deposit at the additional entry unless she was on a Centralized Postage Payment System. DMM D230.1.1 (But, Catch 22, exceptional dispatch is not permitted for mailers on the

centralized postage system. DMM D210.3.3.). The time and effort required to meet the additional paperwork burdens would significantly diminish the return on this small work-sharing discount. She would be required to change her work schedule so she could arrive at New Hebron by 4 p.m. each Wednesday, in order to make the appropriate filing. Tr. 27/14944. And, finally, she would presumably have to educate the New Hebron staff on these new procedures, as she trained her Prentiss postmaster on periodicals rules and practices. Tr. 27/14944, 14946. In sum, Speights would make an investment in additional entry in order to receive a discount that might take months to recover at the rate of her 41 newspapers per haul. Tr. 27/14895. To ask her to do so because the Postal Service cannot deliver her newspapers on time is unreasonable.

In Docket R94-1, the Postal Service opposed the proposal on the grounds that additional entry--with requirements for additional documentation and postage deposits--was the preferred means of authorizing downstream entry of periodicals for discounts at the delivery unit rate. It insisted that exceptional dispatch was simply for the publisher's convenience to facilitate delivery of time-sensitive material at the mailer's own risk and expense. Opinion, MC95-1 at V-5312. The Commission denied the delivery unit discount on grounds that exceptional dispatch was to be permitted only when it did not add to the costs of the Postal Service. It expressed concern about revenue protection and logistics. The Commission then acknowledged NNA's contention that some savings were generated by exceptional dispatch, but it lacked a full record on newspaper practices. Opinion, MC95-1 at 5316, 5320.

This record on this docket offers good cause to re-examine this issue.

First, the Postal Service has demonstrated that it can bootstrap itself into requiring a publisher to pay twice for service when it fails to deliver mail on time--once in postage and again in its own work-sharing cost. Exceptional dispatch is not a convenience to the publisher. Rather it is a necessity caused by the Postal Service's persistent inability to meet service standards.

Second, the record is devoid of evidence from the Postal Service that exceptional dispatch creates any cost to the Postal Service.

Third, the Postal Service offers no evidence that revenue protection is a concern in this area. It raises a vague specter of unverified mail as a possible cause of revenue loss, but fails to offer any data to indicate why that would be so. Speights explains how her mail is verified. Tr. 27/14946. Both she and witness Heath attest--and the Postal Service does not contest--formal verification of any periodicals practice is done only annually and informal verification occurs when the postmaster requires it. Tr. 27/14862. If a postmaster had reason to question exceptional dispatch mail, he or she could perform an audit or--more likely in small town America--simply ask the publisher to show the Postal Service what changes have been made and charge the required postage.

Fourth, NNA learned late in the case and witness Heath testified from his review of the Postal Service's Mailers Companion, that some form of similar downstream entry without formal verifications has begun in the area of "dynamic entry" for national mailers who are allowed to vary their entry offices without the formalities of filing at each one. The Postal Service has not challenged Heath's

addition of this discovery into the record nor explained why such a system, if it exists, is available to national mailers but no local, exceptional dispatch mailers. Tr. 27/14862. If such flexibility can be extended to large mailers, it should be available to the small ones who need it far more.

Finally, even the Postal Service conceded that exceptional dispatch is a form of dropshipping. Tr.10/4957. It failed to offer a sufficient explanation why the work-sharing of large mailers should be compensated with a discount, but of small mailers, not compensated at all.

NNA submits that a Domestic Mail Classification Schedule change to authorize DDU entry for exceptional dispatch periodicals is necessary to break a small, but rather senseless logjam on this issue. NNA is confident that through further operational rulemaking and USPS conversations with mailers, sufficient procedures can be created to make this practice worthwhile, and to compensate small newspapers for their efforts.

V. Work-sharing should be encouraged.

A. NNA supports the creation of a 3-digit rate.

USPS Witness Taufique explains the Postal Service's rationale for introducing a new discount for 3-digit sortation. He points out the effect of changes from reclassification that collapsed presort tiers and resulted in a higher rate for certain 3-digit mail. Direct Testimony of Altaf Taufique, USPS T-34 at 8-9. He also quotes MPA Witness Cohen from Docket MC95-1, when she said:

I think that the Postal Service is moving in the wrong direction in collapsing presort categories. To provide adequate recognition of the degree of presortation and its effect upon reducing costs to the Postal Service, it really should have four presort categories....basic, 3-digit, 5 digit and carrier route." Docket No. MC95-1. Tr. 15/6759.

The Postal Service is to be commended for bringing back the question of expanding presort categories in this case. NNA agrees with the observation of the Commission from the reclassification docket that opposition to splitting the Periodicals class into two subclasses eclipsed serious consideration of meritorious work-sharing proposals within that case. Opinion, MC95-1 at V-139.

Mailers should be encouraged both for cost-sharing and for service reasons to sort mail as finely as possible. Preparation of mail to 5-digit and unique 3-digit zones is recognized. But a non-unique 3-digit zone avoids processing and similarly avoids costs. With the elimination of optional city sacks, mail that was destined for optional cities appears in 3-digit packages and qualifies only for basic rates. Tr. 10/4848. The introduction of a new presort tier has been suggested as a way to cushion the "rate shock" from reclassification and is particularly aimed at these formerly non-unique city sorts. Tr. 10/4849.

Some question about the possibility of encouraging more "skin sacks" or small sacks containing few packages, a practice authorized for periodicals mailers for service reasons, has arisen in the case. Tr.10/4851. This is another area in which periodicals have suffered rising costs and diminished service as a result of reclassification. It is reasonable to assume that with the record of

service problems that has been developed in this case, mailers able to create skin have already done so. This new discount would reward those who are presenting finely-sorted mail already and receiving no reward for so doing.

B. The 125 piece walk sequencing threshold must be re-examined.

The Commission in Docket R90-1 initiated the work-sharing practice of sorting mail to the carrier's sequence of deliveries. The testimony of Postal Service witness Shipe supported a request for a walk-sequencing discount for third-class mail. NNA witness Buc then presented a rationale for extending the discount to second-class mail. Opinion and Recommended Decision, Docket R90-1 at V-133. Buc's recommendation at the time was to set the eligibility threshold at 25 percent of a carrier route, but the Commission opted instead for the flat 125 piece threshold because that was the number used by Shipe. Opinion, R90-1 at V-154.

The Commission reviewed 125-piece requirement level in MC95-1 when NNA again argued that the eligibility level should be set at 25 percent of a route, rather than arbitrarily at 125 pieces. NNA argued that the piece requirement discouraged mailers from walk sequencing in circumstances where a physical impossibility prevented achievement of 125 pieces. By way of illustration, NNA Witness Parta described the circumstance in which box section of 500 boxes might be broken by a post office into carrier segments of four or five. This created virtual carrier routes in which nearly 100 percent saturation would be

necessary to attain the discount--or worse, that 125 boxes did not even exist on some sections, preventing the mailer from attaining the discount regardless of the saturation of the "route." See Opinion and Recommended Decision, Docket MC95-1 at 5298-5300.

The Commission rejected NNA's request, but in so doing, it observed again that the 125-piece level was set where it was simply because that was the level tested in Shipe's study. Opinion, MC95-1 at V-129. In other words, that level was studied. Others were not. Therefore, that level was adopted. But in applying this observation to consideration of the problem posed by NNA, the Commission focused upon the box section problem. It found itself unwilling to delve into the administration of box sections so heavily that a change in the saturation rule was warranted. Opinion, MC95-1 at V-130. It encouraged NNA and the Postal Service, once again, to attempt to engage in a dialogue to solve the problem.

The use of the box section illustration, while representative of the sort of problem a mailer might face was but a graphic subset of a larger problem. It *begged the question of the rationale for selecting the 125-piece level as the threshold eligibility requirement for mailers.* The MC95-1 docket did not focus primarily upon the principal problem faced by community newspapers with regard to this discount: that smaller rural routes present a proportionately higher entry barrier to the use of the discount and that rural mailers, therefore, encounter an unachievable goal. As Heath pointed out, a newspaper with a high 70-80 percent market penetration will fail to achieve a discount if a very small

route (or box section that is treated as a carrier route) fails to produce 125 subscribers. A newspaper with a moderately high penetration of 40% might carry 120 walk-sequenced pieces to its entry office, but walk away with no reward for the work-sharing simply because of the absence of five subscribers. Tr. 27/14762. This doctrine of impossibility serves neither the Postal Service nor the mailers well.

It is within the nature of a paid circulation newspaper's distribution patterns that not all households on a carrier route will subscribe to the newspaper. Even within high-penetration markets, some households will contain persons who are not literate at all, are not literate in the language of that newspaper, and are too busy to read the paper or simply prefer to purchase a single copy on the way to work rather than to subscribe at home. Heath explained the difficulties of various sizes and types of newspapers in achieving high penetrations within a given carrier route. Tr. 27/14762. As witness Heath pointed out during cross-examination, the Postal Service was reluctant to recognize in Docket R90-1 why the design of a mailing system intended for advertising mail users who aim for every household on a route be unusable system for periodicals publishers, even for those with extraordinarily high penetrations in their markets. Tr. 27/14886. Its reluctance now to further examine the high density threshold is characteristic.

In MC95-1, NNA sought direction to the Postal Service for study on other eligibility thresholds and earned the Commission's attention to the problem. The problem has not been solved administratively and the Postal Service has not

chosen to present studies on alternative cost-avoidance thresholds. The difficulties inherent demonstrating viable alternatives when the custodian of the data chooses not to examine alternatives remain insurmountable for most parties and certainly for a small intervenor like NNA. The Postal Service clearly is content with the status quo. NNA seeks the Commission's recognition that in the absence of regulatory guidance, no further work will be accomplished on this topic.

NNA renews its request that the eligibility level should be set at 25 percent of a carrier route. NNA submits that if such a discount creates a larger pass-through than the Postal Service believes to be justified, the Postal Service will appear in the next omnibus rate case with data to justify a different approach. Without such incentive, NNA doubts that the issue will ever successfully compete for a place within the Postal Service's pantheon of goals.

VI. Other issues in the case

A. The Commission should scrutinize Postal Service profits and test-year costs.

NNA has taken no position in this case on the ongoing debates about the Postal Service's revenue requirements, test year costs and the general matter of the Postal Service's break-even status. The silence of community newspapers on the matter is not to be taken as consent to rate increases in a year when the Postal Service obviously is the picture of financial health. Rather, NNA's participation in the case is limited of necessity to those matters that uniquely

affect community newspapers. NNA has joined with other periodicals in raising concerns of broader scope, such as the mail processing cost spiral. Publishers, however, express concern at the Postal Service's unwillingness to permit updated data and its assertion that massive spending will occur in the test year, as if accelerated consumption of cash is necessary to justify an increase. Tr. 35/18681. NNA does not offer or endorse a specific remedy to the problem of a premature rate case, if indeed Porras's justification is found wanting. But NNA does note that many elements in this case--declining service and faulty data among them--add to the record on test year costs to demonstrate that rates no higher than those proposed by the Postal Service should be recommended and that, in fact, this may be the year to pass on work-sharing discounts that have been previously denied by USPS. Additional revenues would also be wisely spent on improving flawed Postal Service data collection systems in all areas of costing.

B. Alternative cost coverage analyses

NNA does not support the recommendation of Newspaper Association of America witness Chown on new methods of analyzing mark-ups. Chown's "new metric" for assessing the degree of cost-coverage deemed appropriate for subclasses that bypass most collection, transportation and mail processing functions and, rather, at the carrier level appears to be designed to respond to the Commission's concerns with ECR mail. Tr. 2/496. Within county mail

possesses a profile very similar to that of ECR mail. Tr. 25/13281-13290. The Revenue Forgone Reform Act (RFRA) would prevent the use of Chown's metric on within county. But though RFRA may appear to be a firewall against the use of this metric to hike the cost coverage of small newspapers, the metric clearly caused a number of parties including NNA to explore whether this newspaper witness was proposing higher rates for within county newspapers. See, e.g., Tr. 25/13299, 13338-45. Chown's responses to NNA's cross-examination indicate her agreement that RFRA would inhibit use of her metric upon cost coverage for this subclass. Tr. 25/13345.

Misreading of this expert's testimony is pervasive enough by itself to cause NNA to question use of this metric in cost coverage. If misapplied, the dangers of misapplication in suppressing work-sharing behavior are significant and for that reason, NNA cannot endorse the recommendation.

VII. Conclusion

The docket in this case presents a deceptively small increase for community newspapers. NNA does not oppose a moderate increase. But there are elements within the request for new rates with which NNA is deeply dissatisfied.

Continued neglect of the within county volume declines is NNA's first and foremost concern. Until the Commission requires a searching investigation of the

causes, beginning with the means by which volumes are measured, no solution to the problem will be found.

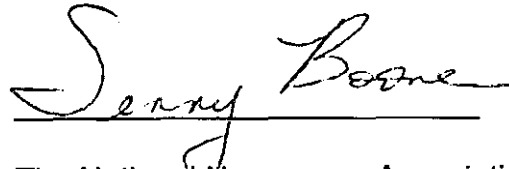
Persistent delivery performance failures in periodicals regular rate mail are NNA's second concern. Because many small newspapers have been required to engage in uncompensated work-sharing to make up for the Postal Service's poor performance in this area, NNA requests a recognition of that work by extension of the DDU entry discount to newspapers entered through exceptional dispatch.

NNA also requests that the Commission revisit the threshold requirements for high density walk sequenced mail. The arbitrary level of 125 pieces per route unfairly cuts off a rural mailer's access to a work-sharing discount, even when the work performed on a rural route may be identical to that performed on a more densely populated route.

NNA joins other mailers in concern about the Postal Service's request for new rates at this particular time. Recommended rates should be no higher than the USPS has proposed. NNA believes there are several areas where those rates should be tempered under the requirements of the law. The Postal Service's superb financial health is an element that should encourage the Commission to be generous in its application of rate-moderating discounts.

Finally, NNA does not support the proposal of witness Chown for a new method of determining cost coverages. While some parties may have misinterpreted Chown's approach in this case, NNA does not feel the approach as described has been tested sufficiently against other means of achieving the goals of Title 39.

Respectfully submitted,

A handwritten signature in cursive script that reads "Senny Boone". The signature is written in dark ink and is positioned above a horizontal line.

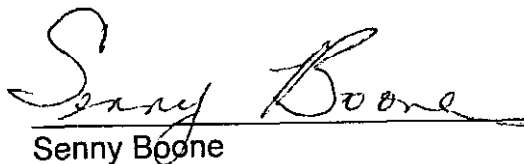
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all participants of record in this proceeding in accordance with section 12 of the Rules of Practice.

A handwritten signature in cursive script that reads "Senny Boone". The signature is written in dark ink and is positioned above a horizontal line.
Senny Boone

April 1, 1998